

BILL NUMBER: SB 40 INTRODUCED
BILL TEXT

INTRODUCED BY Senator Alpert
 (Principal coauthor: Assembly Member Wolk)
 (Coauthor: Assembly Member Maldonado)

JANUARY 6, 2003

An act to add Chapter 13 (commencing with Section 20020) to Part 11 of the Education Code, relating to financing a public library construction and renovation program, making an appropriation therefor, and by providing the funds necessary therefor through an election for, and the issuance and sale of, bonds of the State of California, and by providing for the handling and disposition of those funds, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 40, as introduced, Alpert. California Reading and Literacy Improvement and Public Library Construction and Renovation Bond Act of 2004.

Existing law establishes the California Library Construction and Renovation Bond Act of 1988 and the California Reading and Literacy Improvement Construction and Renovation Bond Act of 2000. Existing law authorizes the issuance of bonds, pursuant to the State General Bond Law, in the amount of \$75,000,000 in the 1988 act and in the amount of \$350,000,000 in the 2000 act, for the purpose of financing library construction and renovation.

This bill would enact the California Reading and Literacy Improvement and Public Library Construction and Renovation Bond Act of 2004, for submission to the voters at the 2004 direct primary election. If approved by the voters, this bill would authorize the issuance, pursuant to the State General Bond Law, of bonds in the amount not to exceed a total of \$2,000,000,000 for the purpose of financing library construction and renovation pursuant to a program administered by the State Librarian.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 13 (commencing with Section 20020) is added to Part 11 of the Education Code, to read:

CHAPTER 13. CALIFORNIA READING AND LITERACY IMPROVEMENT AND PUBLIC LIBRARY CONSTRUCTION AND RENOVATION BOND ACT OF 2004

Article 1. General Provisions

20020. This chapter shall be known and may be cited as the

California Reading and Literacy Improvement and Public Library Construction and Renovation Bond Act of 2004.

20021. The Legislature finds and declares the following:

(a) Reading and literacy skills are fundamental to success in our economy and our society.

(b) Public libraries are a vital part of the educational system. They provide resources and services for all residents of California, including preschoolers, out-of-school adults, senior citizens, and those attending schools at all levels.

(c) In many cases, libraries serve as a community's only public point of access to resources for learning and by extension, self-sufficiency.

(d) The construction and renovation of public library facilities is necessary to expand access to reading and literacy programs in California's public education system and to expand access to public library services for all residents of California.

(e) The need for library facilities continues to grow. A 2003 Needs Assessment compiled by the State Library found that there is a need for over two billion dollars (\$2,000,000,000) in public library funding.

(f) In March 2000, California voters approved a bond measure of three hundred fifty million dollars (\$350,000,000) for library construction and renovation.

(g) Due to the overwhelming response by applicants, the California Public Library Construction and Renovation Board will ultimately be forced to deny approximately 75 percent of all applications due to lack of additional bond funding.

20022. As used in this chapter, the following terms have the following meanings:

(a) "Committee" means the California Library Construction and Renovation Finance Committee established pursuant to Section 19972 and continued in existence pursuant to Section 20040 for the purposes of this chapter.

(b) "Fund" means the California Public Library Construction and Renovation Fund of 2004 established pursuant to Section 20024.

(c) "Board" means the California Public Library Construction and Renovation Board of 2004 established pursuant to Section 20023.

20023. (a) The California Public Library Construction and Renovation Board of 2004 is hereby established.

(b) The board is comprised of the State Librarian, the Treasurer, the Director of Finance, an Assembly Member appointed by the Speaker of the Assembly, a Senator appointed by the Senate Committee on Rules, and two members appointed by the Governor.

(c) Legislative members of the board shall meet with, and participate in, the work of the board to the extent that their participation is not incompatible with their duties as Members of the Legislature. For the purpose of this chapter, Members of the Legislature who are members of the board constitute a joint legislative committee on the subject matter of this chapter.

Article 2. Program Provisions

20024. The proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the California Public Library Construction and Renovation Fund of 2004, which is hereby established.

20025. All moneys deposited in the fund, except as provided in Section 20050, are continuously appropriated to the State Librarian, notwithstanding Section 13340 of the Government Code, and are available for grants to any city and county, or library district that

is authorized at the time of the project application to own and maintain a public library facility for the purposes set forth in Section 20026.

20026. The grant funds authorized pursuant to Section 20025, and the matching funds provided pursuant to Section 20033, shall be used by the recipient for any of the following purposes:

(a) Acquisition or construction of new facilities or additions to existing public library facilities.

(b) Acquisition of land necessary for the purposes of subdivision (a).

(c) Remodeling or rehabilitation of existing public library facilities or of other facilities for the purpose of their conversion to public library facilities. All remodeling and rehabilitation projects funded with grants authorized pursuant to this chapter shall include any necessary upgrading of electrical and telecommunications systems to accommodate Internet and similar computer technology.

(d) Procurement or installation, or both, of furnishings and equipment required to make a facility fully operable, if the procurement or installation is part of a construction or remodeling project funded pursuant to this section.

(e) Payment of fees charged by architects, engineers, and other professionals, whose services are required to plan or execute a project authorized pursuant to this chapter.

(f) Service charges where the services in question are required by the applicant jurisdiction to be provided by a public works or similar department, or by other departments providing professional services where the costs are directly billed to the project pursuant to this chapter.

20027. (a) An applicant for a grant for the acquisition, construction, remodeling, or rehabilitation of public library facilities under this chapter on land not currently possessed by that applicant, for a project that does not include an application for a grant to acquire that land pursuant to subdivision (b) of Section 20026, shall be deemed to comply with any administrative condition adopted pursuant to this chapter that the applicant own the land if the application is accompanied by a copy of a court order issued in an eminent domain action pursuant to Section 1255.410 of the Code of Civil Procedure that entitles the applicant to possession of the land.

(b) the terms "purchase of land" and "acquisition of land" as used in this chapter, or in any rule, regulation or policy adopted by the board pursuant to Section 20031, include, but are not limited to, the acquisition of land by eminent domain. For that purpose, the eligible cost of acquisition shall be the fair market value of the property as defined by Article 4 (commencing with Section 1263.310) of Chapter 9 of Title 7 of Part 3 of the Code of Civil Procedure, except that, if title to the land will not be transferred until after the application is submitted for a grant for the acquisition of the land, the eligible cost of acquisition may not exceed the appraised value of the land.

20028. Any grant funds authorized pursuant to Section 20025, or matching funds provided pursuant to Section 20033, may not be used by a recipient for any of the following purposes:

(a) Books and other library materials.

(b) Administrative costs of the project, including, but not limited to, the costs of any of the following:

(1) Preparation of the grant application.

(2) Procurement of matching funds.

(3) Conduct of an election for obtaining voter approval of the project.

(c) Except as set forth in this chapter, including, but not limited to, Section 20048, interest or other carrying charges for financing the project, including, but not limited to, costs of loans or lease-purchase agreements in excess of the direct costs of any of the authorized purposes specified in Section 20026.

(d) Any ongoing operating expenses for the facility, its personnel, supplies or any other library operations.

20029. All construction contracts for projects funded in part through grants awarded pursuant to this chapter shall be awarded through competitive bidding pursuant to Part 3 (commencing with Section 20100) of Division 2 of the Public Contract Code.

20030. This chapter shall be administered by the State Librarian.

The board shall adopt rules, regulations, and policies for the implementation of this chapter.

20031. A city, county, city and county, or library district may apply to the State Librarian for a grant pursuant to this chapter as follows:

(a) Each application shall be for a project for a purpose authorized by Section 20026.

(b) An application may not be submitted for a project for which construction bids already have been advertised.

(c) The applicant shall request not less than five hundred thousand dollars (\$500,000) per project.

20032. In making the awards, the board shall consider applications for construction or rehabilitation of public library facilities submitted pursuant to Section 20031 and the funding shall be allocated in the following manner:

(a) First priority shall be given to applications deemed eligible by the State Librarian, that were submitted but not funded in the third application cycle of the California Reading and Literacy Improvement and Public Library Construction and Renovation Bond Act of 2000. Amounts awarded by the board for these applications may not exceed 50 percent of the total amount authorized pursuant to Section 20038.

(b) Grant awards shall be made within 60 days after the awards are made for the third cycle of the California Reading and Literacy Improvement and Public Library Construction and Renovation Bond Act of 2000.

(c) Until regulations are adopted pursuant to Section 20030, regulations adopted pursuant to the California Reading and Literacy Improvement and Public Library Construction and Renovation Bond Act of 2000 (Chapter 12 (commencing with Section 19985)) govern the administration of this chapter.

(d) Funds not awarded for the third application cycle pursuant to the California Reading and Literacy Improvement and Public Library Construction and Renovation Bond Act of 2000, shall be awarded on a competitive basis pursuant to this chapter.

(e) (1) Up to twenty-five million dollars (\$25,000,000) shall be made available for joint-use projects that meet all of the following requirements:

(A) The joint-use project is with one or more school districts that serves K-12 pupils.

(B) The school district or districts participating as a joint-use partner or partners provide at least 50 percent of the 35 percent local matching funds required pursuant to subdivision (a) of Section 20033.

(2) If grant awards for the amount allocated for joint-use projects have not been made by March 2, 2008, any remaining funds shall be made available for grants awarded on a competitive basis in the same manner as set forth in subdivision (d).

20033. (a) Each grant recipient shall provide matching funds from any available source in an amount equal to 35 percent of the costs of the project. The remaining 65 percent of the costs of the project, up to a maximum of twenty million dollars (\$20,000,000) per project shall be provided through allocations from the fund.

(b) Qualifying matching funds shall be cash expenditures in the categories specified in Section 20026 which are made not earlier than five years prior to the submission of the application to the State Librarian. Except as otherwise provided in subdivision (c), in-kind expenditures do not qualify as matching funds.

(c) Land donated or otherwise acquired for use as a site for the facility, including but not limited to, land purchased more than five years prior to the submission of the application to the State Librarian, may count towards the 35 percent matching funds requirement at its appraised value as of the date of the application.

This subdivision does not apply to land acquired with funds authorized pursuant to Part 68 (commencing with Section 100400), Part 68.1 (commencing with Section 100600), or Part 68.2 (commencing with Section 100800) if approved by the voters.

(d) Architect fees for plans and drawings for library renovation and new construction, including, but not limited to, plans and drawings purchased more than five years prior to the submission of the application to the State Librarian, may count towards the 35 percent matching funds requirement.

20034. (a) The estimated costs of a project for which an application is submitted shall be consistent with normal public construction costs in the geographic area of the applicant.

(b) An applicant wishing to construct a project having costs that exceed normal public construction costs in the area may apply for a grant in an amount not to exceed 65 percent of the normal costs up to a maximum of twenty million dollars (\$20,000,000) per project if the applicant certifies that it is capable of financing the remainder of the project costs from other sources.

20035. After an application has been approved by the board and included in the State Librarian's request to the committee, the amount of the funding to be provided to the applicant may not be increased. Any actual changes in project costs are the responsibility of the applicant. If the amount of funding that is provided is greater than the cost of the project, the applicant shall return that amount of funding that exceeds the cost of the project to the fund. If an applicant has been awarded funding by the board, but decides not to proceed with the project, the applicant shall return all of the funding to the fund.

20036. (a) In reviewing applications, as part of establishing the priorities set forth in Section 20032, the board shall consider all of the following factors:

(1) The needs of urban, suburban, and rural areas.

(2) The age and condition of existing library facilities within an area.

(3) The degree to which existing library facilities are inadequate in meeting the needs of the residents in the library service area and the degree to which the proposed project responds to those needs.

(4) The degree to which the library integrates appropriate electronic technologies into the proposed project.

(5) The degree to which the proposed site is appropriate for the proposed project and its intended use.

(6) The financial commitment of the local agency submitting the application to open, operate, and maintain the proposed library project upon its completion.

(b) If, after an application has been submitted, material changes occur that would alter the evaluation of an application, the State Librarian may accept an additional written statement from the applicant for consideration by the board.

20037. (a) A facility, or any part thereof, acquired, constructed, remodeled, or rehabilitated with grants received pursuant to this chapter shall be dedicated to public library direct service use for a period of at least 20 years following completion of the project.

(b) Any financial interest that the state may have in the land or facility, or both, resulting from the funding of a project under this chapter, as described in subdivision (a), may be transferred by the State Librarian through an exchange for a replacement site and facility acquired or constructed for the purpose of providing public library direct service.

(c) If the facility, or any part thereof, acquired, constructed, remodeled, or rehabilitated with grants received pursuant to this chapter ceases to be used for public library direct service prior to the expiration of the period specified in subdivision (a), the board shall be entitled to recover from the grant recipient, or the successor of the recipient, an amount that bears the same ratio to the value of the facility, or appropriate part thereof, at the time it ceased to be used for public library direct service, as the amount of the original grant bore to the original cost of the facility, or appropriate part thereof. For purposes of this subdivision, the value of the facility, or appropriate part thereof, shall be determined by the mutual agreement of the board and the grant recipient or successor, or through an action brought for that purpose in the superior court.

(d) Notwithstanding subdivision (f) of Section 16724 of the Government Code, any money recovered pursuant to subdivision (c) shall be deposited in the fund, and shall be available for the purpose of awarding grants for other projects.

Article 3. Fiscal Provisions

20038. Bonds in the total amount not to exceed a total of two billion dollars (\$2,000,000,000), exclusive of refunding bonds issued in accordance with Section 20045, or so much thereof as is necessary, may be issued and sold for deposit in the fund to be used in accordance with, and for carrying out the purposes expressed in, this chapter, including all acts amendatory thereof and supplementary thereto, and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal of and interest on bonds as the principal and interest become due and payable.

20039. The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law apply to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full in this chapter, except Section 16727 of the Government Code to the extent that it may be inconsistent with this chapter.

20040. (a) For purposes of this chapter, the California Library Construction and Renovation Finance Committee established pursuant to Section 19972 is continued in existence and is the "committee" as

that term is used in the State General Obligation Bond Law for the purpose of this chapter.

(b) For purposes of the State General Obligation Bond Law, the California Public Library Construction and Renovation Board of 2004 established pursuant to Section 20023 is designated the board.

20041. The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to carry out the actions specified in this chapter, including all acts amendatory thereof and supplementary thereto, and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

20042. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act that is necessary to collect that additional sum.

20043. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum necessary to carry out Section 20044, appropriated without regard to fiscal years.

20044. For the purposes of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds that have been authorized to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, with interest at the rate earned by the money in the Pooled Money Investment Account during the time the money was withdrawn from the General Fund pursuant to this section, from money received from the sale of bonds for the purpose of carrying out this chapter.

20045. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account or any other approved form of interium financing, in accordance with Section 16312 of the Government Code, for the purposes of carrying out this chapter. The amount of the request may not exceed the amount of the unsold bonds that the committee has, by resolution, authorized to be sold for the purpose of carrying out this chapter. The board shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

20046. Any bonds issued and sold pursuant to this chapter may be refunded by the issuance of refunding bonds in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 2 of Title 2 of the Government Code. Approval of the electors of the state for the issuance of bonds under this chapter shall include the approval of the issuance of any bonds issued to refund any bonds originally issued or any previously issued refunding bonds.

20047. Notwithstanding any other provision of this chapter, or of

the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this chapter that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and for the investment earnings on those proceeds. The Treasurer may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or take any other action with respect to the investment and use of those bond proceeds required or desirable under federal law to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

20048. All money deposited in the fund that is derived from premium and accrued interest on bonds sold pursuant to this chapter shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

20049. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

20050. Amounts deposited in the fund pursuant to this chapter may be appropriated in the annual Budget Act to the State Librarian for the actual amount of office, personnel, and other customary and usual expenses incurred in the direct administration of grant projects pursuant to this chapter, including, but not limited to, expenses incurred by the State Librarian in providing technical assistance to an applicant for a grant under this chapter.

SEC. 2. (a) Section 1 of this act shall take effect upon the adoption by the voters of the California Reading and Literacy Improvement and Public Library Construction and Renovation Bond Act of 2004, as set forth in Section 1 of this act.

(b) Section 1 of this act shall be submitted to the voters at the 2004 direct primary election in accordance with provisions of the Elections Code and the Government Code governing submission of statewide measures to voters.

SEC. 3. (a) Notwithstanding any other provisions of law, all ballots of the election shall have printed thereon and in a square thereof, the words: "California Reading and Literacy Improvement and Public Library Construction and Renovation Bond Act of 2004" and in the same square under those words, the following in 8-point type: "This act provides for a bond issue in an amount not to exceed a total of two billion dollars (\$2,000,000,000) to provide funds for the construction and renovation of public library facilities in order to expand access to reading and literacy programs in California's public education system and to expand access to public library services for all residents of California." Opposite the square, there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against the act.

(b) If the voting in the election is done by a means of voting machines used pursuant to law in the manner that carries out the intent of this section, the use of the voting machines and the expression of the voters' choice by means thereof are in compliance with this section.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for this act to appear on the 2004 direct primary

election so as to, at the earliest possible time, expand access to reading and literacy programs in California's public education system and expand access to public library services for all residents of California, it is necessary for this act to go into immediate effect.